

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

IN RE VALSARTAN, LOSARTAN, AND IRBESARTAN
PRODUCTS LIABILITY LITIGATION

MDL No. 2875 (RBK-JS)

MTD ORDER 1

This Document Relates To All Actions.

KUGLER, United States District Judge:

This matter having come before the Court in this Multi-District Litigation ["MDL"] that concerns the sale in the U.S. of prescription generic drugs containing Valsartan ["VCDs"]¹ and which were found to contain cancer-causing contaminants ["VCDs at issue"] on three Motions to Dismiss ["MTDs"] by each of the three categories of defendant—Manufacturers ["Mfrs"], Wholesalers, Pharmacies—and;

These MTDs seeking dismissal of several claims in the Three Master Complaints—Personal Injury [PIMC], the Economic Loss ["ELMC"], and the Medical Monitoring ["MMMC"]; and

the Court intending to issue a series of Opinions and Orders to resolve the MTDs as to specific Master Complaint claims; and

Each opinion being accompanied by an order; and

this ORDER 1 being the first in the series and accompanying OPINION 1 of this date to resolve the MTD arguments relating to Preemption by Federal Law of plaintiffs' state law claims and the Primary Jurisdiction of the FDA over these claims,

IT IS HEREBY ORDERED:

As for preemption by the Food, Drug, and Cosmetic Act by federal law, the Court **DENIES** defendants' Motions to Dismiss the claims in any Master Complaint;

As for preemption by the Drug Supply Chain Security Act, the Court **DENIES** Wholesalers' and Pharmacies' Motions to Dismiss the claims in any Master Complaint;

As for the primary jurisdiction of the FDA over claims for breach of implied warranty, strict liability, failure to warn, negligence and manufacturing defect, the Court **DENIES** defendants' Motions to Dismiss.

Dated: 17 December 2020

/s Robert B. Kugler
ROBERT B. KUGLER
United States District Judge

¹ Although this MDL consolidates cases that allege injury from the U.S. sales of contaminated valsartan, irbesartan and losartan, as of yet, there are no master complaints in this MDL that concern losartan and irbesartan. Therefore, defendants' motions here concern ONLY claims that allege injury relating to contaminated valsartan.